

DISCUSSION

Upon entry of the present amendment, Claims 1 through 16 and 20-23 remain in the application, and of these, Claims 1, 6, 12, and 22 are independent. The above-identified Office Action has been reviewed, the references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment is submitted. It is contended that by the present amendment, all bases of rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Section 102 Issues

In the above-identified Office Action, the Examiner rejected claims 6-10, 18, and 20-23 under 35 U.S.C. 102(b) as anticipated by Murphy (US6,209,159).

The Examiner asserts that, in his view, Murphy discloses the invention substantially as claimed, including a cushion 20 comprising plural sealed envelopes (i.e. 62), a soft flexible top foam layer 180, a more dense foam reinforcing member 22 that is more than twice as thick as the outer layer, and a waterproof flexible fabric outer layer 186.

Applicant disagrees with, and traverses the rejection of claims 6, 7, 9, and 11 under 35 U.S.C. 102 as anticipated by Murphy, and requests reconsideration and withdrawal of this ground of rejection.

Applicant respectfully submits that Murphy cannot be viewed as anticipating applicant's claimed invention, since Murphy does not disclose each and every element of applicant's claimed invention. With specific regard to claims 6 and 22, Murphy fails to teach, disclose or suggest a protective outer layer that substantially surrounds and encloses the sealed envelope, the top foam layer, and the reinforcing member, as claimed by applicant. The protective outer layer 186 shown by Murphy is shown in figure 2 to only surround the top and sides of the cushion, but does not extend around the bottom of the cushion. This is consistent with the disclosure in column 5, lines 35-52. The applicant respectfully asserts that the protective outer layer 186 disclosed by Murphy does not *surround and enclose* the reinforcing member 22. As such, Murphy cannot properly be characterized as anticipating applicant's invention.

Further, Murphy fails to teach, disclose or suggest an envelope which is substantially coextensive with a lower reinforcing member, as claimed by applicant.

Moreover, applicant has amended each of the independent claims to require a sealed, valvless envelope as part of the claimed combination.

Murphy provides a valve ("control element") 96, 78, 126, 178, and 152 for each sealed air bladder used in the seat cushion 20, and these valves are an important aspect of Murphy's inventive concept since they allow selective point relief, and or "floatation" (col. 6, line 65).

Applicant therefore requests reconsideration and withdrawal of the Examiner's rejection of claims 6-10, and 20-23 under section 102 as anticipated by Murphy.

Section 103 Issues

Also in the above-identified Office Action, the Examiner rejected claims 1, 2, 4, 5, and 12-17 under 35 U.S.C. 103(a) as unpatentable over Brunner (US 4,782,918) in view of Murphy as advanced above. The Examiner states that Brunner discloses a tree stand 10 including frame members 11, 14, 25, attachment member 58, and seat member 46, but fails to disclose the seat cushion structure as claimed. The Examiner states that it would be obvious to provide the tree stand of Brunner with the seat cushion as advanced by Murphy so as to provide a cushion having desirable levels of firmness that reduce pressure points on the body.

Applicant respectfully suggests that Murphy and Brunner are not properly combinable. Brunner teaches a tree seat for use by hunters working in an outdoor environment. In contrast, column 1, lines 6-10 states:

“This invention concerns cushioning pads used in the field of health care to provide pressure reduction for the patient. The invention more particularly concerns cushion pads for patient care in wheelchairs, recliners, and other chairs used by patients in a health care environment.”

A person looking to make improvements in the outdoor tree seat of Brunner would not look to the health care art, to seating designed for patient care used by patients in a health care environment. The only suggestion to combine these unrelated references comes from the Examiner.

Moreover, even if the teachings of these references are combined, the combination fails to teach applicant's invention, as claimed.

The applicant concedes that applicant's tree seat and the tree seat of Brunner share some

limited structural features. However, the combination of Brunner and Murphy is significantly different from applicant's claimed invention.

Further, because the applicant's invention is significantly different than the pressure-reducing cushion disclosed by Murphy, applicant's independent claims have each been amended herein to distinguish the applicant's invention from that disclosed by Murphy. Specifically, claims 1, 6, and 22 have been amended herein to recite that the seat cushion comprises a valveless, closed envelope. Claim 12 has been amended herein to recited that the seat cushion comprises a substantially permanently sealed envelope. These claims are directed to reciting the important feature of the invention wherein the seat cushion is formed having a permanently sealed envelope therein.

This feature is discussed at length in the Summary portion of the applicant's Specification, where it was noted that by providing a permanently sealed envelope, the inventive seat cushion is an improvement over the prior art since the user avoids the inconvenience and discomfort associated with a nonfunctional valve.

A permanently sealed or valveless envelope is not disclosed or suggested by Brunner or Murphy, or their combination. Murphy provides a valve ("control element") 96, 78, 126, 178, and 152 for each sealed air bladder used in the seat cushion 20, and these valves are an important aspect of Murphy's inventive concept since they allow selective point relief, and or "floatation" (col. 6, line 65). Thus, by the amendments to claims 1 and 12 herein, which recite a valveless or

permanently sealed envelope, the applicant has placed claims 1, 2, 4, 5, and 12-17 in condition for allowance.

Other Previously Cited Art

Applicant notes that the Matsler et al. reference, U.S. Patent 5,845,352 has previously been relied on by the Examiner, in earlier Office Actions, as a reference which teaches a seat including a plurality of sealed air cell modules incorporated in a limited area thereof, and intended to support a user. Matsler et al. discloses a foam-air hybrid cushion for use by a wheelchair patient. The cushion of Matsler is a composite cushion having a water resistant skin, a contoured foam base designed to relieve pressure on a human's posterior, and an air cell module having two sets of air cells, each partially filled, positioned inside the foam base in a chamber beneath the rear of the base.

However, the sealed air cells of Matsler do not extend over a large area of a seat to substantially cover a reinforcing member, as claimed by applicant. Applicant therefore submits that the claims, as presently amended, also distinguish over the teaching of Matsler.

Subject Matter Which Has Been Indicated as Allowable by the Examiner

Further in the above-identified Office Action, the Examiner objected to claims 3 and 11 as dependent on a rejected base claim, but indicated that these claims would be allowable if re-written in independent form. Claims 3 and 11 are dependent claims which require a flexible foam material inside of the seat envelope.

In the interests of candor and full disclosure, and as already discussed at some length by applicant's representative and the Examiner via telephone, shortly after the last Office Action was received by Applicant, the Examiner may have inadvertently overlooked part of the disclosure of the Murphy reference, if the Examiner continues to maintain his previous position that Murphy has relevance to applicant's claimed invention.

While applicant does not concede that the health care cushion apparatus of Murphy is applicable art to applicant's invention, Applicant respectfully points out that in Column 1, lines 43 et seq. of Murphy, in a discussion of the prior art, and subsequently, in column 4, lines 35-63, in a discussion of Murphy's invention, Murphy discusses seat cushions including air bladders which are filled with a foam material. Applicant therefore respectfully suggests that the Examiner might wish to review this portion of the Murphy reference, before issuing the next Office Action.

New Claims

Applicant introduces herewith new claims 24 and 25, which depend from independent claims 6 and 22, respectively. Each of these new claims adds a further limitation of straps attached to the protective outer layer for removably attaching the cushion to a support member of a tree seat. No new matter is being added by these new claims, since the subject matter thereof is fully supported by the original specification on page 7, lines 12-15.

Applicant respectfully suggests that the total combination set out in new claims 24 and 25

patentably distinguishes over all known references, considered either individually or in any reasonable combination thereof.

Conclusion

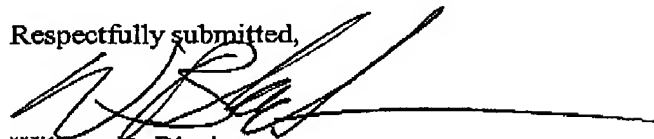
Applicant respectfully submits that all of the above amendments are fully supported by the original application. Applicant also respectfully submits that the above amendments do not introduce any new matter into the application. Applicant respectfully suggests that as presently amended, all of the pending claims are believed to be allowable.

It is applicant's contention that no possible reading of the references, either singly or in any reasonable combination, can be viewed as teaching applicant's claimed invention.

For all of the above mentioned reasons, applicant requests reconsideration and withdrawal of the rejection of record, and allowance of the pending claims.

Carrier, Blackman & Associates
24101 Novi Road, Suite 100
Novi, Michigan 48375
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Respectfully submitted,


William D. Blackman
Attorney for Applicant
Registration Number 32,397
(248) 344-4422

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted, via facsimile, to the United States Patent and Trademark Office on January 17, 2005.

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